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Committee on the Elimination of Racial Discrimination
Ninety-sixth session

Summary record of the 2658th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 14 August 2018, at 3 p.m.

Chair: Mr. Amir

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined twentieth to twenty-third periodic reports of Mauritius (CERD/C/MUS/20-23; CERD/C/MUS/Q/20-23)

1. *At the invitation of the Chair, the delegation of Mauritius took places at the Committee table.*

2. **Mr. Gobin** (Mauritius), introducing the combined twentieth to twenty-third periodic reports of Mauritius (CERD/C/MUS/20-23), said that his Government was determined to provide a human rights-based approach to the country's socioeconomic and cultural development. A new ministry dedicated to human rights had been set up in September 2017 in order to deal with human rights issues in a more systematic and comprehensive manner. The new National Mechanism for Reporting and Follow-Up was part of that ministry and provided a platform for consultation with non-governmental organizations (NGOs) and civil society.

3. Referring to the list of themes drawn up by the Committee (CERD/C/MUS/Q/20-23), he said that most provisions of the Convention were already enshrined in the Constitution and various items of legislation. Implementation of the 2012–2020 National Human Rights Action Plan was regularly monitored by the Ministry of Justice, Human Rights and Institutional Reforms; around 90 per cent of the actions had been implemented, though they were at differing stages of implementation.

4. The Equal Opportunities Act did not currently include language as a protected ground of discrimination.

5. All members of the National Human Rights Commission were appointed by the President of the Republic, on the advice of the Prime Minister. The Commission was independent, reporting directly to the Prime Minister's Office. Similarly, there was no political interference in the work of the national preventive mechanism and Mauritius took pride in the independence of its judiciary and civil service.

6. No provision was made in Mauritian law for the application of special measures in favour of disadvantaged groups. The Constitution advocated equality for all and provided that no law should be discriminatory either in itself or in its effect. The State endeavoured to take all necessary measures to help any group or persons to achieve equal enjoyment of human rights.

7. As to complaints pertaining to racial discrimination, he said that awareness campaigns were conducted on a regular basis. The Prime Minister's Office had created the online Citizen Support Portal to address complaints. They could also be lodged with the National Human Rights Commission, the new Police Complaints Commission, the national preventive mechanism, the Equal Opportunities Commission, the Office of the Ombudsman and the Office of the Ombudsperson for Children.

8. With regard to the implementation of the provisions of the Criminal Code, including article 282, prohibiting incitement to racial hatred and other acts under article 4 of the Convention, he said that when a case was reported to the police, an enquiry was carried out and a report sent to the Director of Public Prosecutions. If there were deemed to be grounds for prosecution appropriate legal action was taken in the courts. His Government was committed to ensuring that no one threatened racial harmony in Mauritius. In a recent case in which the Vice Prime Minister had made remarks liable to incite communal tensions, for example, immediate action had been taken: the Vice Prime Minister had resigned from his post and he understood that a police enquiry had been launched.

9. By way of improving the living standards of vulnerable citizens living on Rodrigues Island, the Government had built 132 houses in the previous year and further construction was planned.

10. The Government was sparing no efforts to improve the living conditions of those forcibly displaced from Diego Garcia and the Chagos Archipelago. As full citizens of

Mauritius, Chagossians enjoyed the same rights as all other Mauritians, including access to services such as free health care and education. In addition, special measures were in place, including the donation of land for housing and the setting up of the Chagossian Welfare Fund with a view, among other things, to developing programmes and projects for the full integration of Chagossians.

11. Steps to promote the Creole language included a literacy programme at the National Women's Centre, aimed at empowering women by providing basic Creole reading and writing skills.

12. An inter-ministerial committee had been set up to ensure proper coordination in response to trafficking issues and a draft action plan on trafficking in persons was in preparation. Support to victims took the form of government-funded NGO shelters and a victim drop-in centre. There was also legal provision for testimony to be given on camera under specific circumstances. In addition, his Government had joined the Call to Action to End Forced Labour, Modern Slavery and Human Trafficking, endorsed by certain United Nations Member States at the General Assembly in 2017.

13. Other measures taken by his Government included a new Extradition Act that simplified procedures and did away with the distinction previously made between Commonwealth and non-Commonwealth countries; under the 2018 Judicial and Legal Provisions Act, criminalization of the offence of stirring up racial hatred via electronic media; amendments to the Prevention of Terrorism Act to strengthen preventive measures; and the 2016 Social Integration and Empowerment Act, intended to help combat absolute poverty.

14. **Ms. Mohamed** (Country Rapporteur) said that it was regrettable that civil society had not been involved in the preparation of the State party's periodic report. The Committee was interested to learn of any cases in which in the rights protected under the International Convention on the Elimination of All Forms of Racial Discrimination had been invoked before or applied by the national courts. Information on any measures that the State party had taken as part of its National Human Rights Action Plan 2012–2020 with a view to the elimination of racial discrimination and their impact would also be welcome. In addition, it would be interesting to know what steps had been taken to amend the Equal Opportunities Act to prohibit discrimination based on language.

15. The Committee would be grateful for information on the State party's efforts to strengthen the independence of the National Human Rights Commission, with particular regard to the appointment and security of tenure of commissioners. Moreover, it would be useful to have detailed information on the Commission's activities and their contribution to combating racial discrimination.

16. The reporting State should indicate what steps it had taken to reconsider the constitutional classification of the various groups of its population based on the principle of self-identification. In addition, the State party should provide information on the steps it had taken to introduce special measures to expedite the equal enjoyment of human rights by disadvantaged groups protected under the Convention.

17. The Committee would welcome information on measures that the State party had taken to raise public awareness of, and strengthen public confidence in, non-judicial channels for submitting complaints of racial discrimination, including the Office of the Ombudsman, the Equal Opportunities Commission and the National Human Rights Commission, and the impact of such measures. Detailed statistical data on complaints of racial discrimination and their outcomes, including disciplinary measures handed down and remedies provided to victims, would also be welcome.

18. It would be interesting to receive information on measures that the State party had taken to implement the provisions of the Criminal Code prohibiting incitement to racial hatred and other acts listed in article 4 of the Convention. In addition, the Committee would welcome information on measures that the State party had adopted to prevent and investigate incidents of hate speech, including by politicians and other public figures, against specific ethnicities or minorities, notably the Creoles. Additional information on measures to improve the living standard of the Creoles, including those residing on

Rodrigues Island, and on the impact of measures to increase their access to education, housing and employment, would also be welcome. The State party should also provide information on the steps it had taken to ensure balanced political participation and the representation of all ethnic groups in the State party as part of the electoral reform process currently under way.

19. The Committee would appreciate information on the measures that the State party had taken to improve the living conditions of the Chagossians. An update on the progress achieved in implementing the recommendations made by the Truth and Justice Commission in 2011 and any other measures to ensure the participation of the Chagossians in activities concerning them would also be welcome. The introduction of instruction in the Creole and Bhojpuri languages in primary schools was welcome. Nevertheless, the Committee would appreciate additional information on measures that the State party had taken to officialize and preserve the Creole language, including in the education system.

20. The Committee encouraged the State party to accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It would be useful to learn about any measures that the State party had adopted to extend the protection against discrimination in respect of access to employment provided for in the Equal Opportunities Act to domestic workers. Additional information on the State party's efforts to improve the working conditions of migrant workers, prevent their exploitation, ensure effective labour inspections in sectors that employ migrant domestic workers and hold abusive employers accountable would be appreciated.

21. The Committee would be grateful if the State party could indicate what it had done to more effectively address trafficking in persons, including migrants, for the purposes of sexual and labour exploitation. Furthermore, it would be useful to have information on the implementation of the Combating of Trafficking in Persons Act of 2009 and other relevant legislation, notably disaggregated data on investigations into trafficking, prosecutions and the outcomes of relevant court cases, including the sentences handed down to perpetrators and the remedies provided to victims.

22. The reporting State should provide information on the measures it had taken to develop and implement a legal framework for protection against refoulement, in accordance with international standards. Updated information on the situation of persons in need of international protection, including their access to basic services and protection against refoulement, would be welcome. It would be useful to know whether the State party had signed any extradition treaties with other countries.

23. Lastly, the Committee would be grateful for additional information on the State party's efforts to assess the impact of human rights training programmes provided to law enforcement officials. Information on human rights training and education programmes implemented to foster reconciliation, inclusiveness and understanding, including those implemented in schools, would also be appreciated.

24. **Mr. Kut** (Follow-up Coordinator) said that he hoped that the State party's follow-up report to the concluding observations resulting from the present session would be submitted in a timely fashion. To follow up on the recommendations that had been made by the Committee in paragraphs 11 and 12 of its previous concluding observations on Mauritius (CERD/C/MUS/CO/15-19), he would appreciate additional information on the State party's efforts to ensure that racial motivation was considered as an aggravating circumstance in the sentencing of crimes, as well as on its efforts to prohibit organizations that promoted racial discrimination. It would be useful to know what percentage of complaints received by the Office of the Ombudsman pertained to racial discrimination. He was interested to know what remedies had been afforded to the victims involved in such complaints and, more generally, what action the institutions tasked with addressing them had taken.

25. **Mr. Avtonomov** said reports suggested that the social hierarchy in Mauritius continued to be divided along skin colour, ancestry, caste and racial lines. Indeed, it was stated in the 2014 report of the country's Equal Opportunities Commission that the caste system remained deeply entrenched in society, including in employment, where it was particularly visible in the public sector. He wished to know what measures the Government and the Equal Opportunities Commission had taken to remedy the situation, including by

conducting research to identify the situation of different ethnic groups in the labour market and aid in efforts to eradicate racial discrimination.

26. He noted that, under the Equal Opportunities Act and the employment legislation, certain hiring practices that could disadvantage some sectors of society were not deemed to be discriminatory. He wondered whether any cases had been brought to challenge those clauses and, if so, how the courts had interpreted those provisions. It would be interesting to know whether the Equal Opportunities Commission had also made any recommendations in that regard. Information on the current situation of Chagossians, who had originally inhabited the Chagos Islands before their expulsion by the British, would also be gratefully received.

27. **Mr. Murillo Martínez** said that he would welcome statistical data on the number of Chagossians residing in Mauritius and on the Chagossian diaspora. Noting that the State party had requested an advisory opinion from the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965, he wished to know the extent to which Chagossians participated in any and all legal proceedings that had been launched on the subject.

28. He would like to know what proportion of the prison population was from an ethnic-minority background; why the Government seemed reluctant to introduce special measures aimed at eliminating discrimination and accelerating the advancement of disadvantaged groups, as provided for by the Convention and explained in the Committee's general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention; whether the burden of proof could be reversed in civil proceedings relating to racial discrimination; and what activities had been planned to mark the International Decade for People of African Descent. Information on the extent to which the caste system persisted in the country would also be appreciated.

29. **Mr. Cali Tzay** said that the Creole community, which constituted around a quarter of the population, was underrepresented in political life and yet overrepresented in the prison population. Moreover, the Constitution did not recognize the Creole language — spoken by around 80 per cent of the population — as an official language alongside English and French. He wondered what reasons were underlying the social and political situation of the Creole population, what measures were being taken to address those imbalances and how the State party intended to improve the representation of ethnic minorities in public and political life.

30. Data provided by the State party in its periodic report suggested that the vast majority of complaints of racial discrimination that were made to the Equal Opportunities Commission or referred to the Equal Opportunities Tribunal were dismissed. He wished to know what could account for that phenomenon; of the cases that had been taken forward, he wondered how many had been litigated, how many had resulted in convictions and what sentences had been handed down.

31. **Mr. Bossuyt** said that he wished to know the extent to which English, French and Creole were used in the administrative, legal and educational spheres. Referring to paragraph 36 of the report, regarding the Deportation Act, he wondered whether there was a maximum period for the detention of persons awaiting a decision on their deportation.

32. He would like to know the extent to which the State party had followed up on the Views of the Human Rights Committee, dated 27 July 2012, concerning communication No. 1744/2007. That Committee had deemed as arbitrary the obligation for prospective candidates of parliamentary elections to declare their membership of one of the four categories of the Mauritian population — namely Hindu, Muslim, Sino-Mauritian or "general population", a category that included Creoles and other groups — in view of the fact that no survey of the community or ethnic make-up of the country had been carried out since 1972. He wished to know whether the proposed electoral reforms included abolishing that requirement and whether there were plans to collect updated data disaggregated by ethnicity so as to ensure the equal political representation of the country's ethnic groups.

33. **Ms. Shepherd**, referring to paragraphs 121–123 of the State party's report, on the Truth and Justice Commission, which had been set up to conduct inquiries into slavery and

indentured labour during the colonial period in Mauritius, said that she would be interested to hear more about the implementation schedule agreed by the Government to give effect to the Commission's recommendations. In particular, she wished to know when a museum of slavery would be established; whether the implementation schedule also covered the work of the Land Research and Mediation Unit and of the Land Monitoring and Research Unit, which were tasked with researching and settling disputes related to land dispossessions; how the work of the Ministerial Committee and the anti-discrimination unit would contribute to improving inter-ethnic relations and the conditions of disadvantaged groups of society; and how the general public had reacted to the recommendation to provide reparations to the affected groups and to establish a system of affirmative action in order to address the social and economic imbalances created and fostered under slavery and colonialism.

34. Regarding education, she would be grateful for information on the impact of measures taken by the Government to increase access to education for the Creole population. She also wondered whether the history of the country's ethnic groups had been incorporated into the school curricula in order to promote understanding, tackle the ethnic divide and combat racial discrimination and hatred. In that connection, she would like to know what progress had been made since the so-called reggae riots of 1999, which had been triggered by widespread discrimination against reggae artists and members of the Rastafarian community. Lastly, she asked what reasons could account for the persistence of the caste system in Mauritius.

35. **Mr. Diaby** said that he wished to know the extent to which the country's different ethnic groups were truly represented in public life, since certain groups seemed to predominate over others. In fact, members of just two families had ruled Mauritius since it had gained its independence. In a similar vein, he would like to know details of the ethnic composition of the police force, in particular in decision-making posts, and how officers from Creole backgrounds were able to progress in their careers.

36. He wondered whether the delegation could provide information on literacy levels and on access to education and employment among the different communities in the State party; whether the Equal Opportunities Commission was a fully independent body and, if so, to which institution it reported; when the most recent population and housing census had been carried out and what the results had been; and what role was played by civil society in Mauritius, including whether NGOs had been involved in the drafting of the State party's report to the Committee.

The meeting was suspended at 5.05 p.m. and resumed at 5.20 p.m.

37. **Mr. Gobin** (Mauritius) said that he was currently unable to provide the Committee with the detailed statistics that it had requested. He pointed out, however, that if his Government began to compile prison statistics based on race, religion or skin colour such as statistics on the number of Creoles in the prison population, it would be perpetuating a system that needed abolishing. Persons were imprisoned following legal proceedings and convictions by impartial courts. The judiciary in Mauritius was fiercely independent and refrained from differentiating on the basis of ethnicity. Article 16 of the Constitution prohibited discrimination on grounds of race, caste, place of origin, political opinions, colour or creed.

38. Referring to the implication by Committee members that specific minorities lived in poverty and were denied access to Government services and employment in the public or private sector, he said that poverty affected all communities and minorities and was spread across all religions, beliefs, skin colours, ethnicities and castes. The social empowerment programme, which sought to eradicate absolute poverty, and the social housing projects for low-income groups did not target specific minorities but were universal programmes. Non-discrimination was the bedrock of racial harmony.

39. The distinguished author V.S. Naipaul, who had passed away a few days previously, had written a book in 1972 entitled "The Overcrowded Barracoon", which referred to ethnically diverse islands, including Mauritius, which had achieved independence in 1968. Mauritius seemed at the time to be doomed to failure due to anticipated social, racial and economic chaos and lethal conflicts between ethnic groups. On the contrary, racial harmony

had prevailed, although it had not been achieved overnight because nation-building was a slow process.

40. He warned against drawing hasty conclusions. With regard to employment, the caste system had never served as a criterion for recruitment or promotion. Moreover, the Commissioner of Police was a Creole.

41. With regard to the comment that unduly few cases of racial hatred were prosecuted in the judicial system, he said that all complaints led to an independent investigation overseen by the Director of Public Prosecutions, who enjoyed constitutional independence. The lacuna in the Criminal Code concerning the dissemination of hate speech by electronic means, such as the social media and mobile phones, had been remedied by the Judicial and Legal Provisions Act. The Information and Communication Technologies Act also criminalized such conduct. The Vice Prime Minister had been forced to resign in November 2017 after making sectarian remarks.

42. He assured the Committee that the caste system, which had stemmed from Indian immigration in the nineteenth century, was not being perpetuated. It would be unfair to appoint Creoles to positions of authority on account of their membership of a particular group rather than on the basis of their competence and qualifications.

43. There were ongoing consultations on reform of the electoral system, which was a highly sensitive issue. Maintenance of harmony, peace and stability and ensuring fair representation had been core principles of the system from the outset and had led to the establishment of three-member rather than single-member constituencies. Free and fair elections had been held at least every five years. The Best Loser System, which was based on four communities, had ensured fair representation, but it was approaching its expiry date and a new formula would have to be found. The Supreme Court was scheduled to deliver a judgment in 2019 on the constitutional case referred to it. The Ministerial Committee would also submit a report to the Cabinet.

44. The Truth and Justice Commission had submitted its report to the President in 2011. It had attached great importance to the issue of landownership and dispossession. At the Government's request, he had instructed the Law Reform Commission to look into the possibility of setting up a land tribunal. The recommendations contained in its report would be implemented.

45. The budget for 2018–2019 allocated funds for the establishment of the Intercontinental Slavery Museum. With regard to the language issue, Mauritius had opted for English and French for obvious economic reasons after achieving its independence. Now that it had become somewhat more prosperous, the National Assembly was contemplating the introduction of the Creole language.

46. All independent institutions, including the Office of the Ombudsman, the Equal Opportunities Commission, the National Human Rights Commission and the Ombudsperson for Children, published annual reports.

The meeting rose at 6 p.m.